

TRANSPORTATION CORPORATION OF AMERICA  
CAR LEASING AGREEMENT  
No. 12173

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INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated this 1st day of December, 1973, by and be-

tween TRANSPORTATION CORPORATION OF AMERICA, a Illinois corporation (hereinafter called "Lessor"), and WEYERHAEUSER COMPANY, a Washington corporation, with its principal place of business at Tacoma, Washington (hereinafter called "Lessee").

WITNESSETH:

Description  
of Cars and  
Rental

1. Lessor hereby leases to Lessee, and Lessee agrees to accept and use exclusively upon the terms and conditions herein set forth, the following described cars (hereinafter referred to as "the cars"), and to pay Lessor for the use of each of the cars the following rental:

<u>Number of Cars</u>	<u>Car Numbers</u>	<u>Type of Car</u>	<u>Monthly Rental Per Car</u>
5	HTCX-300, 301,303, 304 & 305	Thrall Door Box Car Class LU	\$285.00

Additional Cars

2. Except as otherwise provided in writing, all of the terms and conditions herein set forth shall be applicable to any and all other cars delivered to Lessee by Lessor under and during the term of this agreement or any extension thereof, subject to agreement between the parties as to the number and type of cars, the rental rate and the duration of lease involved.

Delivery and  
Use of Cars

3. Lessor agrees to deliver the cars to Lessee at a point or points designated by Lessee. Lessor's obligation as to such deliveries shall be subject to all delays resulting from causes beyond its control. Lessee agrees to use the cars exclusively in its service, and none of the cars shall be shipped beyond the boundaries of the United States or Canada except with the prior written consent of Lessor. Lessee agrees that if any of the cars are used in Canada, Lessee shall reimburse Lessor for any customs duties, taxes, investment tax credit reductions or other expenses resulting from such use.

Payment of  
Rental

4. Lessee agrees to pay the monthly rental with respect to each of the cars from the date of delivery thereof and until such car is returned to Lessor upon the termination of this agreement. Such monthly rentals shall be paid to Lessor at its principal office, P.O. Box 218, Chicago Heights, Illinois, 60411, in advance on the first day of each month, pro rating, however, any period which is less than a full month.

Cars Subject  
to Lessee's

5. Each of the cars shall be subject to Lessee's inspection before loading and the loading of each such car by Lessee or at its direction shall constitute acceptance thereof by Lessee, and shall be conclusive evidence of the fit and suitable condition thereof for the purpose of transporting the commodities then and thereafter loaded therein or thereon.

Reports and  
Mileage

6. Lessor agrees to keep records pertaining to the movement of the cars and Lessee agrees to promptly furnish Lessor with complete reports of the car movements, including dates loaded and shipped, commodity, destination and full junction routing, and all information which Lessee may receive from railroad companies or other sources which may be of use to Lessor. Lessee shall collect all mileage earned by the cars, and, subject to all rules of the tariffs of the railroads, Lessor agrees to credit to Lessee's rental account the mileage earned by the cars, such mileage earnings to be reported monthly for the month in which earned, but in no event shall the aggregate amount of mileage credited exceed the aggregate monthly rentals for the term of this agreement.

Excess Empty  
Mileage

7. Lessee agrees to so use the cars that on each railroad over which they move the mileage under load shall be at least equal to the empty mileage. Lessee agrees to reimburse Lessor for any payment Lessor may be required to make to any railroad resulting from excess empty mileage incurred by the cars on such railroad. For the purpose of this paragraph the railroad mileage and junction reports shall be prima facie evidence of the facts reported therein.

Maintenance

8. Lessee shall promptly notify Lessor upon receipt by Lessee of knowledge of any damage to any of the cars. Lessor agrees to pay for the maintenance and repair of the cars, but it will not pay for repairs made by others to the cars in excess of the basis of Association of American Railroads billing. No repairs other than running repairs (as specified in the Association of American Railroads Rules for Interchange) shall be made by Lessee to any of the cars without Lessor's prior written consent. If any of the cars become unfit for service and shall be held in railroad or car shops for repairs and shall remain therein for a period in excess of five days, the monthly rental with respect to such car shall abate from and after such period of five days until such car is released from the shop or until another car shall have been placed in the service of Lessee by Lessor in substitution for such car.

Cars Removed  
from Service

9. In the event any of the cars are totally damaged or destroyed, the monthly rental with respect to such car shall terminate upon receipt by Lessor of notification thereof, and in the event any of the cars are reported to be bad ordered and Lessor elects to permanently remove such car from Lessee's service rather than have such car taken to a railroad or car shop for repairs, the monthly rental with respect to such car shall terminate upon receipt by Lessor of notification that such car was bad ordered. They shall have the right, but shall not be obligated, to substitute for any such car another car of the same type and capacity and the monthly rental in

respect to such substituted car shall commence upon delivery of such substituted car to Lessee.

Responsibility for  
Damage to Cars

10. In the event that any of the cars, or the fittings, appliances or appurtenances thereto, shall be damaged, ordinary wear and tear excepted, or destroyed either as a result of the acts of any of Lessee's employees, agents or customers or from any commodity or other material therein or thereon, Lessee agrees to assume financial responsibility for such damage or destruction.

Responsibility for  
Lading

11. Lessor shall not be liable for any loss of or damage to commodities, or any part thereof, loaded or shipped in or on the cars, and Lessee agrees to assume financial responsibility for, to indemnify Lessor against, and to save it harmless from any such loss or damage, except when such loss or damage results from the negligence or omission of Lessor, its agents or employees.

Responsibility for  
Removable Parts

12. Lessee, at its own expense, shall either replace or reimburse Lessor for the cost of replacing any appliance or removable part, if destroyed, damaged, lost, removed or stolen, unless the railroads transporting the cars have assumed full responsibility for such loss or damage, or unless such loss or damage results from the negligence or omission of Lessor, its agents or employees.

Indemnification

13. Lessee agrees to indemnify and hold Lessor harmless from and against any loss, liability, claim, damage or expense (including, unless Lessee assumes the defense, the reasonable cost of investigating and defending against any claim for damages) arising out of or in connection with the use of the cars during the term of this agreement, excepting, however, any loss, liability, claim, damage or expense which accrues with respect to any of the cars while such car is in a repair shop undergoing repairs; which is attributable to the negligence or omission of Lessor, its agents or employees; or for which a railroad or railroads have assumed full responsibility, including investigating and defending against any claim for damages.

Lettering

14. No lettering or marking of any kind shall be placed upon any of the cars by Lessee except with the prior written consent of Lessor.

Lessee Not to  
Overload Cars

15. Lessee agrees not to load any of the cars in excess of the load limit stencilled thereon.

Assignment

16. Lessee shall make no transfer or assignment of its interest under this agreement in and to the cars without Lessor's prior written consent, except that Lessee may sublease any of the cars to its customers for temporary usage consistent with its normal merchandising methods. No right, title or interest in any of the cars shall vest in Lessee by reason of this agreement or by reason of the delivery to or use by Lessee of the cars,

except the right to use the cars in accordance with the terms of this agreement.

Remedies

17. If Lessee shall fail to perform any of its obligations hereunder, Lessor at its election may either (a) terminate this agreement immediately, or (b) withdraw the cars from the service of Lessee and deliver the same, or any thereof, to others upon such terms as Lessor may see fit. If Lessor shall elect to proceed in accordance with clause (b) above and if Lessor during the balance of the term of this agreement shall fail to collect for the use of the cars a sum at least equal to all unpaid rentals hereunder to the stated date of termination hereof plus an amount equal to all expenses of withdrawing the cars from service of Lessee and collecting the earnings thereof, Lessee agrees to pay from time to time upon demand by Lessor the amount of any such deficiency. It is expressly understood that Lessor at its option may terminate this agreement in the event that a petition in bankruptcy or a petition for a trustee or receiver be filed by or against Lessee or in the event that Lessee shall make an assignment for creditors.

Return of Cars

18. Upon the termination of this agreement, Lessee agrees, subject to the provisions of paragraph 9 above, to return the cars to Lessor at either Chicago Heights, Illinois; or at such other place or places as are mutually agreed to, in the same or as good condition as received, ordinary wear and tear excepted, free from all charges and liens which may result from any act or default of Lessee, and free from all accumulations or deposits from commodities transported in or on the cars while in the service of Lessee. If any of the cars are not returned to Lessor free from such accumulations or deposits, Lessee shall reimburse Lessor for any expense incurred in cleaning such car.

Term of Agreement

19. This agreement shall be binding upon the parties hereto, their respective successors, assigns and legal representatives, and shall remain in full force and effect for 60-months from December 1, 1973 to November 30, 1978.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in two counterparts (each of which shall be deemed an original) the day and year first above writte.

ATTEST:

  
Asst. Secretary

TRANSPORTATION CORPORATION  
OF AMERICA (Lessor)

By:   
Vice President

ATTEST:

  
Secretary

WEYERHAEUSER COMPANY (Lessee)

By:   
President  
Manager - Rail Transportation